

VZCZCXYZ0006
OO RUEHWEB

DE RUEHAC #0406/01 1721807
ZNY CCCCC ZZH
O 201807Z JUN 08
FM AMEMBASSY ASUNCION
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7022
INFO RUCNMER/MERCOSUR COLLECTIVE PRIORITY

C O N F I D E N T I A L ASUNCION 000406

SIPDIS

STATE FOR WHA/BSC KBEAMER

E.O. 12958: DECL: 06/18/2028
TAGS: [PGOV](#) [KJUS](#) [PA](#)
SUBJECT: PARAGUAYAN SUPREME COURT VACANCIES

REF: 07 ASUNCION 1075

Classified By: A/DCM John Beed for reasons 1.4 (b) and (d).

SUMMARY

11. (C) Paraguay's notoriously politicized judiciary remains a major impediment to continued democratic progress. While the Supreme Court has made recent strides in terms of putting in place new transparency and accountability systems, the selection process for judges remains opaque and linked to political parties and executive branch influence. The possibility of two vacancies on the Paraguayan Supreme Court has been the center of press attention in past weeks. Former Supreme Court minister (justice) Wildo Rienzi Galeano's retirement in July 2007 created the first vacancy, and controversy surrounding Supreme Court President Victor Nunez' term could lead to a second. Some jurists argue the Senate must renew Supreme Court justices' mandates every five years; others argue that once appointed, justices remain on the court until age 75. Although president-elect Fernando Lugo promised judicial reform as part of his administration's anti-corruption efforts, his reform attempts will certainly meet strong resistance in the courts, which have an interest in maintaining the status quo. The public supports Lugo's calls for judicial reform due to widespread perceptions that the judiciary is corrupt and does not act independently. If Lugo is serious about fighting corruption and modernizing Paraguay, judicial reform would be an important, if difficult, place to start. END SUMMARY.

POLITICAL WRANGLING OVER THE COURT

12. (C) Paraguay's notoriously politicized judiciary remains a major impediment to continued democratic progress. While the Supreme Court has made recent strides in terms of putting in place new transparency and accountability systems, the selection process for judges remains opaque and linked to political parties and executive branch influence. The possibility of two vacancies on the Paraguayan Supreme Court has been the center of press attention for past weeks. The Court has had one vacancy since former justice Wildo Rienzi Galeano retired in July 2007 at age 75, and the Senate has not yet named his successor. The opposition-controlled Senate has postponed acting on a slate of three candidates for the vacancy since October 2007 because it deemed the slate too pro-Colorado. (NOTE: The Magistrate Council submitted Colorados Emiliano Rolon, Irma Bogarin, and Augustin Lovera Canete to the Senate for consideration. All are appeals court judges with criminal law backgrounds. END NOTE.)

13. (C) Controversy surrounding Supreme Court President Victor Nunez' term could now lead to a second vacancy. As of

June 4, Nunez completed five years on the Court. The Colorado-dominated Court sent a June 3 letter to the Magistrate Council, which the Council interpreted as the Court's announcement of a vacancy, triggering an announcement that the Magistrate Council will begin accepting applications. (NOTE: The letter also referred to judicial precedence supporting Nunez' right to tenure until age 75. END NOTE). Nunez' Supreme Court colleagues officially endorsed the 66-year-old's right to tenure June 10, attempting to allow him to stay in office until he reaches 75 years of age. Nunez will likely file a constitutional challenge to the Magistrate Council's action, which will ultimately be decided by his colleagues on the high court.

¶4. (C) Some jurists argue that the Senate must renew justices' mandates every five years until retirement. Supreme Court justices -- most of whom are Colorados -- argue that the Constitution allows them to remain in office until age 75. The Court previously ruled that judges whose mandates have been renewed twice by the Senate may invoke tenure and stay in office for life. Four Supreme Court justices invoked their right to tenure in order to stay in office, and Justice Alicia Pucheta told Pol/Econ Chief June 5 that the Supreme Court has ruled to allow them to do so. (NOTE: The Court previously upheld the right to tenure for justices Antonio Fretes, Felipe Paredes, Irala Burgos, and Enrique Sosa. END NOTE.)

DE-POLITICIZING THE JUDICIARY

¶5. (C) Although President-elect Lugo promised judicial reform as part of his administration's anti-corruption efforts, his reform attempts will certainly meet strong resistance in the courts and from elements in Congress. The Colorados control the judicial branch, particularly the Supreme Court and National Elections Tribunal (TSJE), and will likely attempt to maintain the status quo. (NOTE: The Ultima Hora newspaper reported in 2007 that 62 of judges are Colorado Party members while 11 percent are Liberals. END NOTE.) Calling a constituent assembly to amend the Constitution and depoliticize judge selection process (in essence by political quotas) would be one option to consider. The Senate could also clean up the high court by impeaching judges one by one -- perhaps starting with Nunez.

COMMENT

¶6. (C) The public supports Lugo's calls for judicial reform because it perceives that the judiciary is corrupt and does not act independently (reftel). Concerns about Paraguay's judiciary are increasingly acute in light of the two possible Supreme Court vacancies, which the Senate and the courts will grapple with in coming weeks. If Lugo is serious about fighting corruption and modernizing Paraguay, judicial reform would be an important, if difficult, place to start. However, his task will be daunting -- support for maintaining the status quo has very deep roots in Paraguay. END COMMENT.

Please visit us at <http://www.state.sgov.gov/p/wha/asuncion>

Cason